

SENATE BILL No. 249

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-24-6.

Synopsis: Federal regulation of commercial driver's license. Makes various changes to the motor vehicle law pertaining to commercial driver's licenses in order to conform to the Code of Federal Regulations.

Effective: July 1, 2009.

Wyss, Arnold

January 7, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 249

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-2.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 2.2. "Alcohol", for purposes of IC 9-24-6, has the**
4 **meaning set forth in IC 9-24-6-0.3.**

5 SECTION 2. IC 9-13-2-29 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29. "Commercial
7 driver's license" means a license issued by the state to an individual
8 that authorizes the individual to operate a class of commercial motor
9 vehicles: **has the meaning set forth in 49 CFR 383.5, as in effect on**
10 **July 1, 2009.**

11 SECTION 3. IC 9-13-2-35 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) **Except as**
13 **provided in subsection (b), "controlled substance" has the meaning set**
14 **forth in IC 35-48-1.**

15 (b) **"Controlled substance", for purposes of IC 9-24-6, has the**
16 **meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.**

17 SECTION 4. IC 9-13-2-38 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 38. **(a) Except as provided in subsection (b), "conviction" includes the following:**

- (1) A conviction or judgment upon a plea of guilty or nolo contendere.
- (2) A determination of guilt by a jury or a court, even if:
 - (A) no sentence is imposed; or
 - (B) a sentence is suspended.
- (3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.
- (4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

(b) "Conviction", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.

SECTION 5. IC 9-13-2-105, AS AMENDED BY P.L.191-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of IC 9-23-2 and IC 9-23-3, includes a semitrailer.

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.

SECTION 6. IC 9-13-2-161 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 161. (a) "School bus" means, except as provided in subsection (b), a:

- (1) bus;
- (2) hack;
- (3) conveyance;
- (4) commercial motor vehicle; or
- (5) motor vehicle;

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used to transport preschool, elementary, or secondary school children to and from school and to and from school athletic games or contests or other school functions. The term does not include a privately owned automobile with a capacity of not more than five (5) passengers that is used for the purpose of transporting school children to and from school. **For purposes of IC 9-24-6, the term does not include a bus used as a common carrier.**

(b) "School bus", for purposes of IC 9-21, means a motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, including project headstart, or privately owned and operated for compensation for the transportation of children to and from school, including project headstart.

SECTION 7. IC 9-13-2-173, AS AMENDED BY P.L.2-2007, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 173. (a) "State" means, except as otherwise provided by this section and unless by the context some other state or territory or federal district of the United States is meant or intended, the state of Indiana.

(b) "State", for purposes of IC 9-27-1, means the state of Indiana, the governor of Indiana, an agency of the state of Indiana designated by the governor to receive federal aid, and any officer, board, bureau, commission, division, or department, any public body corporate and politic created by the state of Indiana for public purposes, or any state educational institution.

(c) "State", for purposes of IC 9-25, means any state in the United States, the District of Columbia, or any Province of the Dominion of Canada.

(d) "State", for purposes of section 120.5 of this chapter **and IC 9-24-6**, means any state in the United States or the District of Columbia.

SECTION 8. IC 9-13-2-196, AS AMENDED BY P.L.41-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

- (1) A device moved by human power.
- (2) A vehicle that runs only on rails or tracks.
- (3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.

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(4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.

(5) A municipally owned ambulance.

(6) A police patrol wagon.

(7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:

(A) Road construction or maintenance machinery.

(B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.

(C) Construction dust control machinery.

(D) Well boring apparatus.

(E) Ditch digging apparatus.

(F) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

(G) An invalid chair.

(H) A yard tractor.

(8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, a trailer or semitrailer used in the transportation of watercraft, or a motorized bicycle.

(e) For purposes of IC 9-24-6, the term has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.

~~(e)~~ **(f)** For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 9. IC 9-24-6-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.3. As used in this chapter, "alcohol" has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.**

SECTION 10. IC 9-24-6-6, AS AMENDED BY P.L.1-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. (a) The following, if committed while driving a commercial motor vehicle or holding any class of commercial driver's license, are serious traffic violations:**

(1) Operating a vehicle at least fifteen (15) miles per hour above the posted speed limit in violation of IC 9-21-5, IC 9-21-6, or

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IC 9-21-5-14.

(2) Operating a vehicle recklessly as provided in IC 9-21-8-50 and IC 9-21-8-52.

(3) Improper or erratic traffic lane changes in violation of IC 9-21-8-2 through IC 9-21-8-13 and IC 9-21-8-17 through IC 9-21-8-18.

(4) Following a vehicle too closely in violation of IC 9-21-8-14 through IC 9-21-8-16.

(5) In connection with a fatal accident, violating any statute, ordinance, or rule concerning motor vehicle traffic control other than parking statutes, ordinances, or rules.

(6) Operating a vehicle while disqualified under this chapter.

(7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:

(A) Slow down and determine that the railroad tracks are clear of an approaching train, in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.

(B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train, in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.

(8) For all drivers, whether or not they are required to always stop at a railroad crossing, to do any of the following:

(A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.

(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.

(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.

(9) Operating a commercial motor vehicle without having ever obtained a commercial driver's license.

(10) Operating a commercial motor vehicle without a commercial driver's license in the possession of the individual.

(11) Operating a commercial motor vehicle without holding the proper class or endorsement of a commercial driver's license for the operation of the class of commercial motor vehicle.

(b) Subsection (a)(1) and (a)(8) is intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under that statute.

SECTION 11. IC 9-24-6-8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The following, if committed while driving a commercial motor vehicle **or holding any class of commercial driver's license**, are disqualifying offenses:

- (1) Operating a vehicle while under the influence of alcohol in violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this chapter.
- (2) Operating a vehicle while under the influence of a controlled substance in violation of IC 9-30-5-1(c).
- (3) Leaving the scene of an accident involving the driver's commercial motor vehicle in violation of IC 9-26-1.
- (4) Conviction of a felony involving the use of a commercial motor vehicle other than a felony described in subdivision (5).
- (5) Use of a commercial motor vehicle in the commission of a felony under IC 35-48 involving manufacturing, distributing, or dispensing of a controlled substance.
- (6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving operating a vehicle while intoxicated.
- (7) Refusing to undergo testing for the enforcement of IC 9-30-5-1 or section 15 of this chapter.

SECTION 12. IC 9-24-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. A person who knowingly allows, requires, permits, or authorizes another person who is ~~disqualified under this article~~ **subject to an out-of-service order** from driving a commercial motor vehicle to drive a commercial motor vehicle commits a Class C misdemeanor.

SECTION 13. IC 9-24-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) It is unlawful for a person to violate or fail to comply with an out-of-service order.

(b) If a person operates a vehicle in violation of an out-of-service order, in addition to any other penalty imposed for violation of an out-of-service order under this chapter, the court shall impose a civil penalty ~~of one thousand dollars (\$1,000)~~ **in accordance with 49 CFR 383.53, as in effect on July 1, 2009.**

(c) If an employer violates an out-of-service order, or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, in addition to any other penalty imposed for violation of an out-of-service order under this chapter, the court shall impose a civil penalty on the employer ~~of two thousand five hundred dollars (\$2,500)~~ **in accordance with 49 CFR 383.53, as in effect on July 1, 2009.**

(d) All civil penalties assessed under this section must be collected and transferred by the clerk of the court to the bureau. The bureau shall

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1 deposit the money in the motor vehicle highway account established by
2 IC 8-14-1.

3 (e) A civil penalty assessed under this section is a judgment subject
4 to proceedings supplemental by the bureau.

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